

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No.: 4:17CR573RWS
	)	
MITCHELL DAVIS, DC	)	
	)	
Defendant.	)	

**MOTION TO QUASH SUBPOENAS**

Comes Now, Thomas P. Traube Attorney at Law, LLC and Thomas P. Traube, by and through counsel, Patrick S. Kilgore, and respectfully request this Court issue and Order to Quash the subpoenas served upon the above parties on August 20, 2018 by the Defendant in the above entitled matter. Under Federal Rule of Criminal Procedure Rule 17, any compliance is unreasonable.

Thomas P. Traube Attorney at Law, LLC. Exists as a corporation in name only as of December 21<sup>st</sup> 2017. Thomas P. Traube has never conducted business as Thomas P. Traube Attorney at Law, LLC. Moreover, Thomas P. Traube Attorney at Law, LLC did not exist during the period of time for which said subpoenas request information.

William Sorrell is a sole proprietor doing business as Sorrell & Traube. This entity is not a partnership. Thomas P. Traube is a sole practitioner and an independent contractor doing work for William Sorrell doing business as Sorrell & Traube. Thomas P. Traube does not now, nor has Thomas P. Traube ever, had in his possession any documents requested in the Subpoena.

Counsel for Defendant states in a Memorandum to the Court that the evidence sought by the subpoenas will assist this Court in its assessment of Defendant's relative

culpability. This statement is not accurate for the reason that Defendant has already pled guilty to actions which Defendant personally took, directed, or in some way aided and abetted. Any information relating to what a third party did or did not do does not negate Defendant's guilt or show that Defendant is less culpable than any other individual.

Counsel for Defendant states further that "S & T have engaged in suspicious behavior in response to Dr. Davis's motion for subpoenas." These statements, as they relate to Thomas P. Traube, are a complete mischaracterization as to what occurred and irrelevant to any material factor in Defendant's Sentencing Hearing.

On August 9, 2018, Thomas P. Traube called the Defendant and asked Defendant if Defendant wished him to write a letter in support for Defendant's Sentencing Hearing. Defendant. Defendant replied "Yes, the reason I haven't asked is that I thought you would say no." Defendant further stated that his wife, Galina Davis would text a screenshot of the form of the letter and where to send it. Galina Davis did so, and Thomas P. Traube wrote the letter and sent it to the appropriate party. On August 11, 2018, Thomas P. Traube called the Defendant, Galina Davis, and their adult son, Michael Davis. Said calls were not answered. Thomas P. Traube represents Michael Davis in an unrelated civil matter. Thomas P. Traube made these phone calls only in an attempt to reach his client, Michael Davis, to discuss time sensitive issues relating to his legal representation in an unrelated civil matter. Furthermore, these contacts by Thomas P. Traube are not in any way a violation of Missouri Rule of Professional Conduct 4-4.2. Although this rule does prohibit communicating "with any person who is represented by counsel on the matter to which the communication relates," that is not circumstances of the contacts described above. In addition, Rule 4-4.2 does not apply to this situation

because Thomas P. Traube is not representing a client in the above communications with the Defendant.

As stated above, Thomas P. Traube does not now have, and has never had any documents relative to the Defendant's subpoena. In addition, as an individual sole proprietor Thomas P. Traube, will in the event this subpoena is not quashed, exercise his Fifth Amendment right to not testify. The testimonial evidence sought by the subpoena is not relevant to any of the factors the Court is required to consider under United States Code, Section 3553(a).

Wherefore, Thomas P. Traube respectfully requests that the Court issue an Order to Quash the subpoenas previously served on Thomas P. Traube and Thomas P. Traube LLC in the above entitled Cause.

Respectfully Submitted,

s/ Patrick S. Kilgore  
By: Patrick S. Kilgore, #44150MO  
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(314) 621-1800  
(314) 621-4222 - Fax  
ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2018, the foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all appropriate parties.

s/ Patrick S. Kilgore  
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